

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

DEY PHARMA, L.P. and DEY, INC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 08-372 (LPS)
	)	
SUNOVION PHARMACEUTICALS INC.,	)	
	)	
Defendant.	)	

**JOINT STIPULATION OF DISMISSAL  
AND [PROPOSED] ORDER OF FINAL JUDGMENT**

WHEREAS, Plaintiffs Dey Pharma, L.P. and Dey, Inc. (collectively “Dey”) filed a complaint against Defendant Sunovion Pharmaceuticals Inc. (“Sunovion”) seeking declaratory judgments of: (1) noninfringement; and (2) invalidity with respect to U.S. Patent No. 6,451,289;

WHEREAS, Dey has agreed to dismiss without prejudice their claim for a declaratory judgment of invalidity;

WHEREAS, the parties have agreed to the entry of final judgment upon dismissal of Dey’s claim without prejudice to the right of Defendant Sunovion Pharmaceuticals Inc. (“Sunovion” or “Defendant”) to appeal;

IT IS HEREBY STIPULATED by the parties, subject to the approval of the Court, that Dey’s claim for declaratory judgment of invalidity be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), each party to bear its own costs; and,

IT IS ORDERED AND ADJUDGED that Final Judgment be entered for Plaintiffs against Defendant on Plaintiffs’ claim for a declaratory judgment of noninfringement of U.S. Patent No. 6,541,289, without prejudice to the right of Sunovion to appeal.

POTTER ANDERSON & CORROON LLP

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

By: /s/ David E. Moore

Richard L. Horwitz (#2246)  
David E. Moore (#3983)  
Hercules Plaza, 6<sup>th</sup> Floor  
1313 N. Market Street  
Wilmington, DE 19801  
Tel: (302) 984-6000  
[rhorwitz@potteranderson.com](mailto:rhorwitz@potteranderson.com)  
[dmoore@potteranderson.com](mailto:dmoore@potteranderson.com)

*Attorneys for Plaintiffs  
Dey Pharma, L.P. and Dey, Inc.*

By: /s/ Karen Jacobs Loudon

Jack B. Blumenfeld (#1014)  
Karen Jacobs Loudon (#2881)  
1201 N. Market Street  
P.O. Box 1347  
Wilmington, DE 19899-1347  
Tel: (302) 658-9200  
[jblumenfeld@mnat.com](mailto:jblumenfeld@mnat.com)  
[kloudon@mnat.com](mailto:kloudon@mnat.com)

*Attorneys for Defendant Sunovion  
Pharmaceuticals Inc.*

IT IS SO ORDERED this \_\_\_\_\_ day of June, 2011.

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UNITED STATES DISTRICT JUDGE

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